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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,787	11/07/2001	Mark Dehdashtian	VAS-5639	7489

7590

09/24/2003

Lena I. Vinitzkaya
Edwards Lifesciences LLC
Law Department
One Edwards Way
Irvine, CA 92614

EXAMINER

O CONNOR, CARY E

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 09/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,787

Applicant(s)

DEHDASHTIAN ET AL

Examiner

Cary E. O'Connor

Art Unit

3732

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 16-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "the exterior surface" and "the graft body" in lines 2-3. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by White et al (2002/0123790 A1). White shows an aorto-uniliac stent-graft comprising a tubular body 10 having a linear shape and an inner and an outer surface and being radially expandable from a compressed state to an expanded state (paragraph 0019). The

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device includes a plurality of undulating filaments extending circumferentially about the body and forming a ring-shaped configuration (paragraph 0014), and a plurality of specifically-configured engagement members 21 disposed on the outer surface of the body and configure to frictionally engage the inner wall of the a body vessel so as to inhibit longitudinal movement of the body without piercing the vessel wall (claim 1). As to claim 2, in the embodiment in Figure 8, the tubular body can be said to be comprised of first and second tubular portions, each defined by different outer diameters. As to claim 3, note the embodiment of Figure 8 where the filament has a first and second end extending through the body and form an abutting junction between two filaments. As to claims 4 and 5, some of the filaments lie along the inner surface of the body (paragraph 0014, line 22-24) or are woven through the body (paragraph 0014, line 11-13). As to claims 6 and 7, note paragraph 0069. As to claim 8, note that the engagement members are disposed on the outer surface in a fixed geometric pattern, as can be seen in Figure 3b. As to claim 9, note that the embodiment of Figure 8 shows the engagement member formed by a joining member 101 securing the junction between two filaments. As to claims 11 and 13, note the self-expanding stent portion 205 circumferentially disposed along the exterior surface and towards and end of the body. As to claim 14, note the sleeve 121 and projection 113. The sleeve remains parallel to the graft before, during and following deployment, as can be seen in Figure 9.

Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by White (5,782,904). White shows a intraluminal graft comprising a main trunk portion defining an interwoven tubular stent and graft element having a plurality of wireforms 17

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disposed therethrough, engagement means (column 6, lines 5-9) for attaching a portion to a native vessel 11, and an extension portion adapted to mate with the main trunk portion (column 3, last paragraph).

Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fogarty et al (5,824,037). Fogarty discloses a method of converting an emplaced graft 62 comprising providing an intraluminal graft body having a plurality of separated, spaced apart wireforms 112 woven through the body, wherein the graft has a main trunk portion 64 and an extension portion 66. A catheter system 30 is used to insert the main trunk portion into an aneurismal section of an aorta within the emplace graft and the main trunk portion is expanded to engage the interior wall of the emplaced graft and to generate a flow path. The flow path is extended by matingly engaging the extension with the main trunk portion. See Figures 5A-5C.

Allowable Subject Matter

Claims 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Priority


Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on September 23, 1999. It is noted, however, that applicant has not filed a certified copy of the Australian application as required by 35 U.S.C. 119(b).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 703-308-2701. The examiner can normally be reached on M-Th, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 703-308-0858. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-2708 for regular communications and 703-308-2708 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Cary E. O'Connor
Primary Examiner
Art Unit 3732

ceo
September 22, 2003